

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel. STATE  
ENGINEER,

Plaintiff,

v.

No. 66cv6639 MV/WPL

R. LEE AAMODT, et.al.,

Defendants,

and

UNITED STATES OF AMERICA,  
PUEBLO DE NAMBE,  
PUEBLO DE POJOAQUE,  
PUEBLO DE SAN ILDEFONSO,  
and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

**PROCEDURAL ORDER FOR CORRECTING SUBFILE ERRORS**

**THIS MATTER** comes before the Court on Plaintiff State of New Mexico *ex rel.* State Engineer’s (“State”) May 28, 2013, *Motion to Adopt Procedural Order for Correcting Subfile Errors and Partially Lift Stay* (Doc No. 7889). The State submitted a proposed *Procedural Order for Correcting Subfile Errors* (“Procedural Order”) with its Motion. No responses opposing the State’s Motion have been filed. Having been fully advised in the premises, and having modified the State’s proposed Procedural Order (see Sections C and D below), the Court GRANTS the motion. Accordingly, the filing of motions and the entry of orders correcting errors in subfile orders shall be governed by this Procedural Order which supersedes the Court’s February 11, 1993, *Order Adopting Procedures for Correcting and Amending Subfile Orders* (Doc. No. 4112) and all other orders of the Court to the extent they conflict with this Order. The

Court also amends and partially lifts the *Stipulated Order Staying Further Proceedings Before the Special Master* (Doc. No. 5623, August 31, 2000) only for the filing of motions to correct subfile errors.

**A. CORRECTIONS TO SUBFILE ORDERS BASED ON CLERICAL MISTAKE, OMISSION, OR OVERSIGHT, PURSUANT TO RULE 60(A) OF THE FEDERAL RULES OF CIVIL PROCEDURE.**

**1. Clerical Corrections Not Requiring Service on Subfile Owner.**

Corrections in subfile orders involving additions or changes to the description of a water right that do not affect the nature or extent of the water right may be sought without notice of the requested correction to subfile owners. Such clerical corrections include but are not limited to the following:

- a. standardizing or correcting the spelling of names of rivers, streams or water sources;
- b. standardizing or correcting the spelling of names of acequias, ditches or individual water rights claimants;
- c. adding information to more fully describe the point of diversion or the place of use of the right (e.g., township-range-section and quarter-quarter section information, and/or X and Y coordinates, etc.);
- d. adding information assigned by the Office of the New Mexico State Engineer (“OSE”) to better locate or describe a right (e.g., OSE groundwater or surface water file numbers, etc.);
- e. correcting or amending the designation of subfile numbers, map and tract numbers, OSE water rights file numbers, etc.

**a. Procedures for Seeking Corrections**

Motions and proposed orders for clerical corrections under Section A.1 above may be filed by the State without service upon the defendant of record associated with the particular subfile, or upon persons who, according to the State's existing adjudication records, may have an interest in the right. The Court will mail copies of orders making corrections to subfiles under Section A.1 to the defendant of record or their successors-in-interest at their last home address as determined from the State's records.

**2. Clerical Corrections Requiring Service by Mail.**

Clerical corrections to the description of a water right in a subfile order that affect the nature and extent of the right require service in the manner described in Section A.2.a below. Such corrections include but are not limited to the following:

- a. correction to the description of the place or purpose of use, or point of diversion (e.g., incorrect source of water or ditch name, errors in the township-range section and quarter-quarter section descriptions, incorrect X and Y coordinates, etc.);
- b. correction to the amount of irrigated acreage;
- c. correction to the priority date assignment.

**a. Procedures for Seeking Corrections**

The State or claimants may file motions to make corrections under Section A.2 above in either an individual subfile order or group of subfile orders. When filed by the State, the motion and proposed order shall be served by mail to the defendant of record associated with the particular subfile, and to other persons who, according to the State's existing adjudication records, may have an interest in the right.

Any response in opposition or reply in support of the motion shall be filed within the time period established by the District of New Mexico's Local Rule of Civil Procedure D.N.M.LR-Civ. 7.4(a) (14 days). This time period is computed in accordance with Fed. R. Civ. P. 6(a) and (d) and may be extended by agreement of all parties. If a response in opposition is filed, the Special Master may hear evidence or legal argument on the motion and report his recommendations to the Court. The Court will mail copies of its order granting or denying the motion to the parties.

#### **B. CORRECTION OF ERRORS IN THE HYDROGRAPHIC SURVEY MAPS.**

Any errors in the State's maps that do not require a correction in a subfile order may be corrected by the State without notice to the Court or the parties associated with any subfile for which map corrections are being made.

#### **C. SERVICE OF ORDERS ON *PRO SE* PARTIES.**

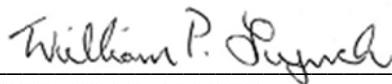
Sections A.1.a and A.2.a state that the Court will mail copies of orders issued pursuant to this Order to the parties. The Special Master has entered Orders limiting service of pleadings to lessen the burden of service. (*See* Doc. No. 6413, filed October 15, 2008; Doc. No. 6539, filed January 5, 2009). *Pro se* parties that file an entry of appearance receive all general pleadings, orders and notices. *Pro se* parties that do not file an entry of appearance only receive pleadings and other papers required to be served concerning their individual water rights, but do not appear on the case caption. The Clerk of the Court cannot serve orders on parties that do not appear on the case caption without an address for those parties. Any party submitting a proposed order to the Court concerning a *pro se* party that does not appear on the case caption shall include in the proposed order a statement which instructs the Clerk of the Court to mail a copy of the order to the relevant *pro se* parties not appearing on the case caption and provides the names and

addresses of those parties. This Order does not apply where the Court has instructed a party to serve a copy of an order on other parties.

**D. MODIFICATIONS TO THE PROCEDURE SET FORTH IN THIS ORDER.**

The Special Master may, either on motion or *sua sponte*, modify the procedures set forth in this Order. *See* Fed. R. Civ. P. 53(c)(1)(A) (“Unless the appointing order directs otherwise, a master may regulate all proceedings”); Fed. R. Civ. P. 53(f)(5) (“Unless the appointing order establishes a different standard of review, the court may set aside a master’s ruling on a procedural matter only for an abuse of discretion”); Order of Reference at 4, Doc. 6336, filed June 30, 2008 (“The Special Master shall hear and determine all claims and contentions of the parties . . . relating to . . . any errors and omissions process . . .”).

**IT IS SO ORDERED.**

  
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WILLIAM P. LYNCH  
UNITED STATES MAGISTRATE JUDGE